

Michael Yesk (SB#130056)
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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSE BARRIONUEVO and FLOR
BARRIONUEVO,

Plaintiffs,

vs.

CHASE BANK, N.A. Successor In
Interest to WASHINGTON MUTUAL BANK,
FA; and DOES 1-100 Inclusive,

Defendants

) Case: 12-cv-00572-EMC
)
) PLAINTIFF'S NOTICE OF MOTION AND
) MOTION TO BE RELIEVED AS COUNSEL;
) NOTICE TO CLIENT; DECLARATION OF
) MICHAEL YESK IN SUPPORT OF MOTION;
) [Proposed] ORDER
)
)
) DATE: July 27, 2012
) TIME: 1:30 P.m.
) CTRM: 5, 17th Floor
)
)

TO CLIENTS JOSE BARRIONUEVO and FLOR BARRIONUEVO, DEFENDANTS AND TO THIS
HONORABLE COURT:

PLEASE TAKE NOTICE THAT at 1:30 p.m. on July 27, 2012 or as soon
thereafter as counsel may be heard, in the courtroom of the Honorable United
States District Judge Edward M. Chen, located at 450 Golden Gate Avenue,
Courtroom 5, 17th Floor, San Francisco, California 94102, Plaintiffs' Counsel
MICHAEL YESK will move for an order permitting the attorney to be relieved as
attorney of record in the action or proceeding pursuant to Fed. R. Civ. P. 7
and Local Rule 7-2.

PLAINTIFF'S NOTICE OF MOTION AND MOTION TO BE RELIEVED AS COUNSEL; NOTICE TO
CLIENT; DECLARATION OF MICHAEL YESK IN SUPPORT OF MOTION; [Proposed] ORDER

1 The Motion to Withdraw as Attorney will be based on this Notice of
2 Motion and Motion, the accompanying Notice to Client, the Declaration of
3 Michael Yesk, and such other and further matters as may be considered at the
4 hearing in this matter.

5 The client(s) presently represented by the attorney is an individual.

6 This court has authority to substitute new counsel. (Code Civ. Proc.
7 §284, subd.(2); Echlin v. Superior Court (1939) 13 Cal.2d 368, 374.) An
8 attorney may withdraw from a case unless there is a compelling reason for
9 continued representation. (Hepple v. Kluge (1951) 104 Cal.Ap.2d 461, 462.)
10 The court does have the discretion to deny an attorney's request to withdraw
11 if the withdrawal would work an injustice. (People v. McCracken (1952) 39
12 Cal.2d 336.)

13
14 Dated: June 14, 2012

Yesk Law

15 /s/ Michael Yesk

16 Michael Yesk, Attorney for Plaintiffs
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UNITED STATES DISTRICT COURT
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JOSE BARRIONUEVO and FLOR)	Case: 12-cv-00572-EMC
BARRIONUEVO,)	
)	NOTICE TO CLIENT
)	
Plaintiffs,)	
)	
vs.)	DATE: July 27, 2012
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CHASE BANK, N.A. Successor In)	
Interest to WASHINGTON MUTUAL BANK,)	
FA; and DOES 1-100 Inclusive,)	
)	
Defendants)	
_____)	

TO CLIENTS JOSE BARRIONUEVO and FLOR BARRIONUEVO:

If this motion to be relieved as counsel is granted, your present attorney will no longer be representing you. You may not in most cases represent yourself if you are one of the parties on the following list:

- A guardian
- A conservator
- A trustee
- A personal representative
- A probate fiduciary
- A corporation
- A guardian ad litem

PLAINTIFF'S NOTICE OF MOTION AND MOTION TO BE RELIEVED AS COUNSEL; NOTICE TO CLIENT; DECLARATION OF MICHAEL YESK IN SUPPORT OF MOTION; [Proposed] ORDER

- An unincorporated association

If you are one of these parties, YOU SHOULD IMMEDIATELY SEEK LEGAL ADVICE REGARDING LEGAL REPRESENTATION. Failure to retain an attorney may lead to an order striking the pleadings or to the entry of a default judgment.

If this motion is granted and a client is representing himself or herself, the client will be solely responsible for the case.

NOTICE TO CLIENT WHO WILL BE UNREPRESENTED

If this motion to be relieved as counsel is granted, you will not have an attorney representing you. You may wish to seek legal assistance. If you do not have a new attorney to represent you in this action or proceeding, and you are legally permitted to do so, you will be representing yourself. It will be your responsibility to comply with all court rules and applicable laws. If you fail to do so, or fail to appear at hearings, action may be taken against you. You may lose your case.

If this motion is granted, the client must keep the court informed of the client's current address.

If this motion to be relieved as counsel is granted, the court needs to know how to contact you. If you do not keep the court and other parties informed of your current address and telephone number, they will not be able to send you notices of actions that may affect you, including actions that may adversely affect your interests or result in your losing your case.

Dated: June 14, 2012

Yesk Law

/s/ MichaelYesk

Michael Yesk, Attorney for Plaintiffs

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 Pleasant Hill, CA 94523
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 Attorney for Plaintiffs

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

JOSE BARRIONUEVO and FLOR BARRIONUEVO,) Case: 12-cv-00572-EMC
)
) DECLARATION OF MICHAEL YESK IN
Plaintiffs,) SUPPORT OF MOTION
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vs.)
) DATE: July 27, 2012
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CHASE BANK, N.A. Successor In) CTRM: 5, 17 th Floor
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FA; and DOES 1-100 Inclusive,)
)
Defendants)
_____)

I, Michael Yesk, hereby declare I have personal knowledge of the following facts and I am competent to testify as to the truth of these facts if called upon to do so:

Attorney Michael Yesk is currently attorney of record for plaintiffs JOSE BARRIONUEVO and FLOR BARRIONUEVO.

Attorney makes this motion to be relieved as counsel under Fed. R. Civ. P. 7 and Local Rule 7-2 instead of filing for a consent for the following reasons:

Attorney and client have reached a point where attorney can no longer represent client. Attorney-client privilege prevents a public statement. Attorney will explain to court and client - in camera, if necessary.

1 Attorney has served the client by mail at client's last known address,
2 5931 ANNADALE WAY, DUBLIN, CA 94568 with copies of the motion papers served
3 with this declaration.

4 Attorney has confirmed within the last 30 days that the address is
5 current, by telephone 510 755 1472.

6 The next hearing in this action or proceeding is set as follows:
7 Motion to Dismiss Plaintiff's First Amended Complaint set for June 22, 2012
8 at 1:30 p.m. in Courtroom 5, 17th Floor, San Francisco, before Hon. Edward M.
9 Chen located at 450 Golden Gate Avenue, San Francisco, CA 94102.

10 The following additional hearings and other proceedings (including
11 discovery matters) are presently scheduled in this case: None set.

12 Trial in this action or proceeding is not yet set.

13 Other matters that the court should consider in determining whether to
14 grant this motion are the following: None.

15 I declare under penalty of perjury under the laws of the State of
16 California that the foregoing is true and correct and that this Declaration
17 was executed on the date below at Pleasant Hill, California.

18
19 Dated: June 14, 2012 /s/ Michael Yesk
20 Michael Yesk

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Attorney for Plaintiffs

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Defendants)	
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The motion of attorney MICHAEL YESK to be relieved as counsel of record for Plaintiffs JOSE BARRIONUEVO and FLOR BARRIONUEVO, a party to this action or proceeding, came on regularly for hearing at the date, time, and place indicated above.

The following persons were present at the hearing: Michael Yesk, attorney.

The court finds the attorney served client, client was properly served, and had sufficient notice of the hearing.

The court further finds that attorney has shown sufficient reasons why the Motion to be Relieved as Counsel should be granted and why the attorney

1 has brought a motion under Fed. R. Civ. P. 7 and Local Rule 7-2 instead of
2 filing for a consent.

3
4 IT IS HEREBY ORDERED THAT:

5 Attorney is relieved as counsel of record effective on _____.
6 The clients' current address and telephone number are: _____
7 _____.

8 Service on the client must hereafter be made at that address unless
9 otherwise ordered.

10 The next scheduled hearing is set for: *(date, time, and place)*.

11 The hearing will concern: *(subject matter)*.

12 The following additional hearings and other proceedings (including
13 discovery matters) are set in this action: *(describe the date, time, place,
and subject matter of each)*.

14 The trial in this matter: *(is not yet set)*.

15 Client is hereby notified of the following effects this order may have
16 upon parties:

17 Your present attorney is no longer representing you. You may not in
18 most cases represent yourself if you are one of the parties on the following
19 list:

- 20 • A guardian
- 21 • A conservator
- 22 • A trustee
- 23 • A personal representative
- 24 • A probate fiduciary
- 25 • A corporation
- 26 • A guardian ad litem
- An unincorporated association

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1 If you are one of these parties, YOU SHOULD IMMEDIATELY SEEK LEGAL
2 ADVICE REGARDING LEGAL REPRESENTATION. Failure to retain an attorney may
3 lead to an order striking the pleadings or to the entry of a default
4 judgment.

5 Client is notified that, if the client is representing himself or
6 herself, the client will be solely responsible for the case.

7 **NOTICE TO CLIENT WHO WILL BE UNREPRESENTED**

8 You will not have an attorney representing you. You may wish to seek
9 legal assistance. If you do not have a new attorney to represent you in this
10 action or proceeding, and you are legally permitted to do so, you will be
11 representing yourself. It will be your responsibility to comply with all
12 court rules and applicable laws. If you fail to do so, or fail to appear at
13 hearings, action may be taken against you. You may lose your case.

14 Client is notified that it is the client's duty to keep the court
15 informed at all times of the client's current address.

16 The client must keep the court informed of the client's current address.

17 The court needs to know how to contact you. If you do not keep the
18 court and other parties informed of your current address and telephone
19 number, they will not be able to send you notices of actions that may affect
20 you, including actions that may adversely affect your interests or result in
21 your losing your case.

22 The court further orders: *(specify)*.

23 Dated: _____

24 HONORABLE EDWARD M. CHEN, DISTRICT
25 JUDGE, NORTHERN DISTRICT OF
26 CALIFORNIA